

NEW YORK STATE
BOARD OF LAW EXAMINERS



CONTENT OUTLINE FOR THE NEW YORK LAW COURSE AND
NEW YORK LAW EXAMINATION:

SIGNIFICANT DISTINCTIONS, LAWS AND RULES

October 2015

INTRODUCTION

Beginning with the administration of the July 2016 New York bar examination, applicants seeking admission to practice in New York based upon examination must take and pass the Uniform Bar Examination (UBE) and must also complete the New York Law Course (NYLC) and pass the New York Law Exam (NYLE).

The New York State Board of Law Examiners has created this content outline in an effort to indicate, in summary fashion, the subject matter covered in the NYLC and NYLE. It is our hope that this outline will assist applicants in their preparation for practice in New York.

GLOSSARY OF STATE STATUTES AND RULES

Banking Law	New York Codes Rules and Regulations (NYCRR)
Business Corporation Law (BCL)	New York Constitution (NY Const)
Civil Practice Law and Rules (CPLR)	Partnership Law
Civil Rights Law	Penal Law
Criminal Procedure Law (CPL)	Public Health Law
Domestic Relations Law (DRL)	Public Officers Law
Estates, Powers and Trusts Law (EPTL)	Real Property Actions and Proceedings Law (RPAPL)
Family Court Act (FCA)	Real Property Law (RPL)
General Business Law	Rules of Professional Conduct (RPC)
General Municipal Law	Social Services Law
General Obligations Law (GOL)	State Administrative Procedure Act (SAPA)
Insurance Law	State Technology Law
Judiciary Law	Surrogate's Court Procedure Act (SCPA)
Labor Law	Vehicle and Traffic Law
Limited Liability Company Law	Workers Compensation Law

ADMINISTRATIVE LAW

- I. Rulemaking
 - A. Power to make: *Nicholas v Kahn*, 47 NY2d 24 (1979)
 - B. Statutory procedures: SAPA 201, 202, 203
- II. Publication of Rules
 - A. New York Codes Rules and Regulations (NYCRR)
 - B. The State Register
- III. Adjudication
 - A. Statutory authority: SAPA art 3, 301, 302, 303, 304, 305, 306, 307
 - B. Required process
 - 1. Due process requirements: SAPA 301
 - 2. Discovery: SAPA 305
 - 3. Hearing rules of evidence and right to counsel: SAPA 306, 501
 - C. Res judicata and collateral estoppel effect
 - D. Agency power to acquire information
 - 1. Administrative investigations/searches: *Levin v Murawski*, 59 NY2d 35 (1983); Civil Rights Law § 73
 - 2. Administrative subpoenas: CPLR 2302
- IV. Judicial Review
 - A. Preconditions to judicial review
 - 1. Standing
 - 2. Exhaustion of administrative remedies
 - 3. Ripeness
 - 4. Finality
 - B. Review of agency actions
 - 1. Procedural basis of review: CPLR art 78, declaratory judgment action
 - 2. Adjudications
 - a. Determinations of law
 - b. Determinations of fact
 - c. Substantial evidence
 - 3. Discretionary decisions
 - 4. Rules and policy determinations
- V. Public Disclosure
 - A. Freedom of Information Law: Public Officers Law § 87
 - B. Open Meetings Law: Public Officers Law § 103
 - C. Reporting and recordkeeping requirements: Public Officers Law § 106

BUSINESS RELATIONSHIPS

Business Corporations, Limited Liability Companies and Partnerships

Business Corporations

- I. Formation and Nature
 - A. Certificate of incorporation: BCL 402
 - B. Adoption, amendment and repeal of bylaws: BCL 601

- II. Management and Control
 - A. Shareholders
 - 1. Right to dissent and be paid for shares: BCL 806, 623
 - 2. Minority shareholder's right to petition for judicial dissolution: BCL 1104-a
 - B. Directors
 - 1. Number, election and removal: BCL 614, 706
 - 2. Interested directors: BCL 713
 - 3. Loans to directors: BCL 714
 - C. Officers: election, authority and removal: BCL 715, 716
 - D. Duties and liabilities of officers and directors
 - 1. Statutory liabilities of officers and directors: BCL 719, 720
 - 2. Ordinarily prudent person standard and business judgment rule: BCL 715, 717
- III. Professional Service Corporations
 - A. Requirements: BCL 1503, 1504
 - B. Professional relationships and liabilities: BCL 1505

Limited Liability Companies

- I. Articles of Organization, publication: Limited Liability Company Law §§ 203, 206
- II. Management
 - A. By members or managers: Limited Liability Company Law §§ 401, 408
 - B. Operating agreement: Limited Liability Company Law § 417
- III. Professional Service Limited Liability Companies
 - A. Requirements: Limited Liability Company Law § 1203
 - B. Professional relationships and liabilities: Limited Liability Company Law § 1205

Partnerships - Formation and Nature

- I. General Partnerships: Partnership Law §§ 10, 11
- II. Limited Partnerships: Partnership Law (Revised Limited Partnership Act) § 121-201
- III. Registered Limited Liability Partnerships: Partnership Law § 121-1500

CIVIL PRACTICE AND PROCEDURE

- I. Organization of New York's Court System and Subject Matter Jurisdiction of New York Courts
 - A. Principal appellate courts
 - 1. Court of Appeals: NY Const art VI, § 3
 - 2. Appellate Division of Supreme Court (First, Second, Third and Fourth Judicial Departments): NY Const art VI, § 4
 - B. Principal trial courts
 - 1. Supreme Court: NY Const art VI, § 7
 - 2. Court of Claims: NY Const art VI, § 9
 - 3. County Court: NY Const art VI, § 11
 - 4. Surrogate's Court: NY Const art VI, § 12
 - 5. Family Court: NY Const art VI, § 13
 - C. Other courts
 - 1. Civil and Criminal Courts in New York City: NY Const art VI, § 15
 - 2. District Courts: NY Const art VI, § 16
 - 3. Town, Village and City Courts: NY Const art VI, § 17

- II. Commencement of Action and Service of Process
 - A. Commencement by filing, including electronic filing: CPLR 304, 22 NYCRR §§ 202.5-b, 202.5-bb
 - B. Service of process: CPLR 303, 306-b, 308
 - C. Service outside New York: CPLR 313

- III. Personal Jurisdiction
 - A. CPLR 301
 - B. Long-Arm Jurisdiction
 - 1. Constitutional limits: *Daimler AG. v Bauman*, 134 S Ct 746, ___ US ___ (2014)
 - 2. CPLR 302

- IV. Venue and Forum Non Conveniens
 - A. Proper venue for various types of actions: CPLR 503, 504, 507
 - B. Change of venue: CPLR 510
 - C. Forum non conveniens: CPLR 327

- V. Limitations of Time
 - A. Statutes of limitations for various types of actions: CPLR 202, 203, 213, 214, 214-a, 215, 217, 217-a; EPTL 5-4.1
 - B. Claims against municipalities: General Municipal Law §§ 50-e, 50-i
 - C. Tolling: CPLR 207, 208, 210
 - D. New action following termination: CPLR 205

- VI. Appearances and Pleadings
 - A. Defendant's appearance: CPLR 320, 321 (a)
 - B. Change or withdrawal of attorney: CPLR 321 (b)
 - C. Types of pleadings: CPLR 3011
 - D. Responsive pleadings: CPLR 3018
 - E. Cross-claims and counterclaims: CPLR 3019
 - F. Verification of pleadings: CPLR 3020
 - G. Amended and supplemental pleadings: CPLR 3025
 - H. Bill of particulars: CPLR 3041, 3042, 3043, 3044

- VII. Parties
 - A. Necessary and proper parties: CPLR 1001, 1002, 1003
 - B. Third-party practice: CPLR 1007, 1008, 1009

- VIII. Provisional Remedies
 - A. Attachment: CPLR 6201, 6212, 6213
 - B. Injunction: CPLR 6301, 6311, 6312, 6313
 - C. Notice of pendency: CPLR 6501, 6512

- IX. Motions
 - A. Motion to dismiss: CPLR 3211
 - B. Motion for summary judgment: CPLR 3212
 - C. Motion for relief from judgment or order: CPLR 5015
 - D. Motion practice: CPLR 2214 (motion papers); 22 NYCRR § 202.6 (request for judicial intervention); 22 NYCRR § 202.7 (affirmation of good faith)

- X. Disclosure
 - A. Scope of disclosure: CPLR 3101
 - B. Use of interrogatories: CPLR 3130
- XI. Special Proceedings
 - A. Generally: CPLR 401, 402, 404, 408
 - B. Proceeding against body or officer: CPLR 7801, 7803, 7804
- XII. Alternative Dispute Resolution
 - A. Arbitration: CPLR 7501, 7502, 7503, 7506, 7511
 - B. Mediation
 - C. Other forms of alternative dispute resolution
- XIII. Appeals
 - A. Scope of review: CPLR 5501
 - B. Time to take appeal: CPLR 5513
 - C. Taking an appeal: CPLR 5515
 - D. Appeals to the Court of Appeals: CPLR 5601, 5602
 - E. Appeals to the Appellate Division: CPLR 5701

CONFLICT OF LAWS

- I. Application in Specific Areas
 - A. Torts: *Padula v Lilarn Props. Corp.*, 84 NY2d 519 (1994); *Neumeier v Kuehner*, 31 NY2d 121 (1972)
 - B. Contracts: *Matter of Allstate Ins. Co. [Stolarz-New Jersey Mfrs. Ins. Co.]*, 81 NY2d 219 (1993); *Auten v Auten*, 308 NY 155 (1954)
 - C. Estates: EPTL 3-5.1
- II. Defenses against Application of Foreign Law
 - A. Substantive/procedural dichotomies: *Tanges v Heidelberg N. Am.*, 93 NY2d 48 (1999)
 - B. Local public policy: *Sachs v Adeli*, 26 AD3d 52 (1st Dept 2005)

CONTRACTS

- I. Formation and Enforceability of Contracts
 - A. Mutual mistake vs. unilateral mistake: *Simkin v Blank*, 19 NY3d 46 (2012); *Matter of Gould v Board of Educ. of Sewanhaka Cent. High School Dist.*, 81 NY2d 446 (1993)
 - B. Inability to consent, including infancy: GOL 3-101
 - C. Unconscionability and illegality: General Business Law § 349; GOL 5-401, 5-501, 5-321, 5-322.1, 5-323, 5-325, 5-326; *Gillman v Chase Manhattan Bank*, 73 NY2d 1 (1988)
 - D. Consideration: GOL 5-1103, 5-1105, 5-1107, 5-1109
 - E. Statutes of Frauds: GOL 5-701, 5-703
 - F. Third-party beneficiary contracts, including intended vs. incidental beneficiaries: *Mendel v Henry Phipps Plaza W., Inc.*, 6 NY3d 783 (2006); *Fourth Ocean Putnam Corp. v Interstate Wrecking Co.* 66 NY2d 38 (1985); *Logan-Baldwin v L.S.M. Gen. Contrs. Inc.*, 94 AD3d 1466 (4th Dept 2012)
 - G. Constructive trusts: *Bankers Sec. Life Ins. Socy. v Shakerdge*, 49 NY2d 939 (1980); *Simonds v Simonds*, 45 NY2d 233 (1978); *Sharp v Kosmalski*, 40 NY2d 119 (1976)
 - H. Employment contracts: *Cruz v HSBC Bank, USA, N.A.*, 5 F Supp 3d 253 (ED NY 2014), *affd* 586 Fed Appx 723 (2nd Cir 2014); *Murphy v American Home Prods. Corp.*, 58 NY2d 293

- (1983); *Weinerv McGraw–Hill, Inc.*, 57 NY2d 458 (1982)
- I. Admissibility of extrinsic evidence: *W.W.W. Assocs. v Giancontieri*, 77 NY2d 157 (1990)

CRIMINAL LAW AND PROCEDURE

- I. General Principles
- A. Mental culpability
 - 1. Culpable mental states: Penal Law § 15.05
 - 2. Mistake of fact or law: Penal Law § 15.20
 - B. Defenses related to mental culpability
 - 1. Mental disease or defect: Penal Law § 40.15
 - 2. Extreme emotional disturbance: Penal Law § 125.25 (1) (a)
 - 3. Intoxication: Penal Law § 15.25
 - C. Affirmative and ordinary defenses
 - 1. Burden of proof: Penal Law § 25
 - 2. Alibi: *People v Victor*, 62 NY2d 374 (1984)
 - 3. Entrapment: Penal Law § 40.05
 - 4. Justification, defense of self or another: Penal Law art 35
 - 5. Renunciation: Penal Law § 40.10
- II. Crimes
- A. Assault: Penal Law art 120
 - B. Murder, manslaughter and criminally negligent homicide: Penal Law art 125
 - C. Sex offenses: Penal Law art 130
 - D. Burglary and related offenses: Penal Law art 140
 - E. Larceny: Penal Law art 155
 - F. Robbery: Penal Law art 160
 - G. Anticipatory offenses
 - 1. Criminal solicitation: Penal Law art 100
 - 2. Conspiracy: Penal Law art 105
 - 3. Attempt to commit a crime: Penal Law art 110
 - 4. Criminal facilitation: Penal Law art 115
- III. New York Constitutional and Procedural Protections
- A. Detention and warrantless arrest: CPL 140.10; *People v Bora*, 83 NY2d 531 (1994); *People v Hollman*, 79 NY2d 181 (1992); *People v Johnson*, 66 NY2d 398 (1985); *People v De Bour*, 40 NY2d 219 (1976)
 - B. Search and seizure
 - 1. With a warrant: CPL 690.05, 690.10, 690.15, 690.35; *People v Griminger*, 71 NY2d 635 (1988); *People v Bigelow*, 6 NY2d 417 (1985)
 - 2. Without a warrant: *People v Brown*, 96 NY2d 80 (2001); *People v Diaz*, 81 NY2d 106 (1993); *People v Gokey*, 60 NY2d 309 (1983); *People v Belton*, 55 NY2d 49 (1982); *People v Rodriguez*, 77AD3d 280 (2d Dept 2010), *lv denied* 15 NY3d 955 (2010)
 - C. Confessions and privilege against self-incrimination
 - 1. Right to counsel, indelible attachment: *People v West*, 81 NY2d 370 (1993); *People v Bing*, 76 NY2d 331 (1990); *People v Hobson*, 39 NY2d 479 (1976); *People v Arthur*, 22 NY2d 325 (1968)
 - 2. Voluntariness: *People v Huntley*, 15 NY2d 72 (1965)
 - D. Police-arranged identification procedures
 - 1. Photographic identification: *People v Lindsay*, 42 NY2d 9 (1977)

2. Corporeal identification: *People v Ward*, 116 AD3d 989 (2d Dept 2014), *lv denied* 23 NY3d 1069 (2014); *People v Jackson*, 98 NY2d 555 (2002)
 3. In-court identification: CPL 60.25, 60.30; *People v Adams*, 53 NY2d 241 (1981)
- E. Speedy trial guarantees: CPL 30.20 (1), 30.30; *People v Singer*, 44 NY2d 241 (1978); *People v Staley*, 41 NY2d 789 (1977); *People v Taranovich*, 37 NY2d 442 (1975)
 - F. Double jeopardy: CPL 40.10, 40.20, 40.30; NY Const art 1, § 6; *Matter of Polito v Walsh*, 8 NY3d 683 (2007); *Matter of Kaplan v Ritter*, 71 NY2d 222 (1987)
 - G. Grand jury testimony/immunity: CPL 50.10, 190.40, 190.45, 190.50
 - H. Accomplice testimony: CPL 60.22

EVIDENCE

- I. Judicial Notice
 - A. Judicial notice of law: CPLR 4511
 - B. Judicial notice of adjudicative facts: *Ptasznik v Schultz*, 247 AD2d 197 (2d Dept 1998)
- II. Relevancy
 - A. Character evidence: *Fanelli v diLorenzo*, 187 AD2d 1004 (4th Dept 1992); *Kravitz v Long Is. Jewish-Hillside Med. Ctr.*, 113 AD2d 577 (2d Dept 1985); *People v Barber*, 74 NY2d 653 (1989) (dissenting opinion)
 - B. Uncharged crimes: *People v Rojas*, 97 NY2d 32 (2001); *People v Molineaux*, 168 NY 264 (1901)
 - C. Habit: *Rivera v Anilesh*, 8 NY3d 627 (2007)
- III. Witnesses
 - A. Competency of witnesses: CPLR 4512, 4513, 4519; CPL 60.22; FCA 343.1 (2); *People v Nisoff*, 36 NY2d 560 (1975)
 - B. Impeachment
 1. Inconsistent statements: CPLR 3117 (a) (1), 4514, 4517; CPL 60.35; *People v Wise*, 46 NY2d 321 (1978)
 2. Conviction of crime: CPLR 4513; *People v Sandoval*, 34 NY2d 371 (1974)
 3. Specific instances of conduct: *People v Schwartzman*, 24 NY2d 241 (1969), *cert denied* 396 US 846 (1969)
 4. Character for truthfulness: *People v Pavao*, 59 NY2d 282 (1983)
 - C. Expert testimony
 1. Expert opinions: *People v Cronin*, 60 NY2d 430 (1983)
 2. Scientific evidence: *Parker v Mobil Oil Corp.*, 7 NY3d 434 (2006); *Frye v United States*, 293 F 1013 (DC Cir 1923)
- IV. Privileges
 - A. Spousal immunity and marital communications: CPLR 4502, 4512
 - B. Attorney-client: CPLR 4503; *Rossi v Blue Cross & Blue Shield of Greater N.Y.*, 73 NY2d 588 (1989)
 - C. Physician/psychologist-patient: CPLR 4504, 4507
 - D. Self-incrimination: CPLR 4501
- V. Hearsay and Circumstances of its Admissibility
 - A. Definition of hearsay: *Nucci v Proper*, 95 NY2d 597 (2001)
 - B. Admissions: *Loschiavo v Port Auth. of NY & NJ*, 58 NY2d 1040 (1983); *Reed v McCord*, 160 NY 330 (1899)
 - C. Present sense impressions: *People v Vasquez*, 88 NY2d 561 (1996)

- D. Statements for purposes of medical diagnosis and treatment: *People v Ortega*, 15 NY3d 610 (2010)
- E. Business records: CPLR 3122-a, 4518, 4539, State Technology Law §§ 305, 306; CPL 60.10; *Johnson v Lutz*, 253 NY 124 (1930)
- F. Former testimony, including depositions: CPLR 4517, CPL 670.10

MATRIMONIAL AND FAMILY LAW

- I. Getting Married
 - A. Recognition of common law marriage: *Mott v Duncan Petroleum Trans.*, 51 NY2d 289 (1980)
 - B. Prenuptial and post-nuptial contracts: DRL 236 (B) (3); GOL 5-701 (a) (3); *Galetta v Galetta*, 21 NY3d 186 (2013)

- II. Matrimonial Actions
 - A. Separation agreements: DRL 236 (B) (3); *Levine v Levine*, 56 NY2d 42 (1982)
 - B. Grounds and defenses: DRL 170, 171, 210
 - C. Jurisdiction: CPLR 302 (b)
 - D. Durational residency requirements: DRL 230
 - E. Pleadings and service of process: DRL 211, 232, 236 (B) (2) (b)

- III. Equitable Distribution: DRL 236 (B) (4), 236 (B) (5)
 - A. Separate property: DRL 236 (B) (1) (d)
 - B. Marital property: DRL 236 (B) (1) (c); *Price v Price*, 69 NY2d 8 (1986); *Majauskas v Majauskas*, 61 NY2d 481 (1984)

- IV. Support
 - A. Spousal maintenance: DRL 236 (B) (5-a), 236 (B) (6)
 - B. Child Support Standards Act: DRL 240 (1-b); FCA 413
 - C. Modification and enforcement: DRL 236 (B) (9) (b) (1), (2); DRL 241, 248; FCA 413; *Bast v Rossoff*, 91 NY2d 723 (1998); *Cassano v Cassano*, 85 NY2d 649 (1995); *Matter of Brescia v Fitts*, 56 NY2d 132 (1982); *Matter of Boden v Boden*, 42 NY2d 210 (1977); *Litman v Litman*, 93 AD2d 695 [2d Dept. 1983], *affd* 61 NY2d 918 [1984]

- V. Filiation Proceedings
 - A. Presumption of legitimacy: FCA 417, DRL 24, 73, 175
 - B. Establishing paternity: FCA 418, 532
 - C. Doctrine of equitable estoppel in paternity: FCA 418 (a), 532 (a); *Matter of Juanita A. v Kenneth Mark N.*, 15 NY3d 1 (2010); *Matter of Shondel J. v Mark D.*, 7 NY3d 320 (2006)

- VI. Child Protective Proceedings
 - A. Abuse and neglect: FCA 1012
 - B. Termination of parental rights: FCA 611; Social Services Law § 384-b

- VII. Family Offense Proceedings: FCA 812, 842, DRL 240 (3)

- VIII. Juvenile Delinquency, Persons in Need of Supervision: FCA 301.2, 712

- IX. Attorney for the Child: FCA 241, 242, 249, 22 NYCRR § 7.2

- X. Adoption: FCA 641; DRL 112-a, 114, 117, 122
 - A. Who may adopt: DRL 110

- B. Who may be adopted: DRL 110
 - C. Required consent: DRL 111; *Matter of Raquel Marie X.*, 76 NY2d 387 (1990), *cert denied* 498 US 984 (1990)
 - D. Birth parents' rights post-adoption: *Matter of Hailey ZZ. [Ricky ZZ.]*, 19 NY3d 422 (2012)
- XI. Child Custody: DRL 240 (1); 25 USC §§ 1901, 1911 (Indian Child Welfare Act)
- A. Best interest of child standard: DRL 240 (1); *Eschbach v Eschbach*, 56 NY2d 167 (1982); *Friederwitzer v Friederwitzer*, 55 NY2d 89 (1982); *Lincoln v Lincoln*, 24 NY2d 270 (1969)
 - B. Visitation rights of parents and others: DRL 72, 240 (1); *Alison D. v Virginia M.*, 77 NY2d 651 (1991); *Weiss v Weiss*, 52 NY2d 170 (1981); *Bennett v Jeffreys*, 40 NY2d 543 (1976)
 - C. Types of custodial arrangements: *Braiman v Braiman*, 44 NY2d 584 (1978)
 - D. Enforcement: DRL art 5-A (UCCJEA)
 - E. Modification of custody, relocation: FCA 467, 652; *Matter of Tropea v Tropea*, 87 NY2d 727 (1996)

PROFESSIONAL RESPONSIBILITY

- I. The Lawyer-Client Relationship
- A. Scope of representation and allocation of authority between client and lawyer: RPC Rule 1.2 (e) – (g)
 - B. Communication with client: RPC Rule 1.4 (a) (1) (iii)
 - C. Withdrawal: RPC Rule 1.16 (b) (4)
- II. Privilege and Confidentiality
- A. Professional obligation of confidentiality: RPC Rule 1.6 (a)
 - B. Exceptions to confidentiality: RPC Rule 1.6 (b) (ii), (iii), (c)
- III. Conflicts of Interest
- A. Current clients: RPC Rule 1.7 (a) (1)
 - B. Sexual relations with clients: RPC Rule 1.8 (j) (1)
 - C. Imputed disqualification: RPC Rule 1.10
 - D. Organization as client: RPC Rule 1.13 (a), (b)
- IV. Client's Rights, Retainer Agreements, and Fees
- A. Statement of client's rights, engagement letters and retainer agreements: 22 NYCRR Parts 1210, 1215, 1400
 - B. Compromise of infant claims: 22 NYCRR 603.8
 - C. Prohibited fees: RPC Rule 1.5 (d)
 - D. Fee disputes: RPC Rule 1.5 (f); 22 NYCRR Parts 137 and 1230
- V. Safeguarding Property and Funds of Clients and Others
- A. Prohibition against commingling and misappropriation: RPC Rule 1.15 (a)
 - B. Separate accounts: RPC Rule 1.15 (b); Judiciary Law § 497; 22 NYCRR Part 1300
 - C. Notifying of receipt of property, safekeeping: RPC Rule 1.15 (c)
 - D. Bookkeeping and authorized signatories: RPC Rule 1.15 (d), (e), (h)-(j)
- VI. Communication about Legal Services
- A. Advertising: RPC Rule 7.1
 - B. Referrals: RPC Rule 7.2
 - C. Solicitation: RPC Rules 7.3, 4.5
 - D. Professional notices, letterhead and signs: RPC Rule 7.5

- VII. Interaction with Third-Persons
 - A. Truthfulness: RPC Rule 4.1
 - B. Communication with represented person: RPC Rule 4.2 (b)
- VIII. Litigation
 - A. Non-meritorious claims and contentions: RPC Rule 3.1 (b); 22 NYCRR Part 130; CPLR 8303-a
 - B. Delay of litigation: RPC Rule 3.2
 - C. Fairness to opposing party and counsel: RPC Rule 3.4
- IX. Regulation and Responsibilities of the Legal Profession
 - A. Registration of attorneys: Judiciary Law § 468; 22 NYCRR Part 118.1
 - B. Continuing legal education: 22 NYCRR Part 1500
 - C. Misconduct and discipline generally: Judiciary Law § 90; RPC Rule 8.4 (g), (h)
 - D. Unauthorized practice of law: RPC Rule 5.5
 - E. Nonlegal services and cooperative business arrangements: RPC Rules 5.7, 5.8; 22 NYCRR Part 1205
 - F. Competence: RPC Rule 1.1 (b), (c)
 - G. Pro bono services: RPC Rules 6.1, 6.5

REAL PROPERTY

- I. Landlord and tenant
 - A. Formation of lease: GOL 5-702; RPL 235-f, 237; GOL 5-703
 - B. Types of tenancies
 - C. Assignment and sublease: RPL 226-b
 - D. Warranty of habitability: RPL 235-b
 - E. Holdovers: RPL 232-c
 - F. Termination of monthly or month-to-month tenancies: RPL 232-a, 232-b
 - G. Breach and remedies; summary proceedings: RPAPL 711; *Holy Props v Cole Prods.*, 87 NY2d 130 (1995); *Rios v Carrillo*, 53 AD3d 111 (2d Dept 2008); RPL 234
 - H. Deposits: GOL 7-103, 7-105
- II. Real Property Contracts
 - A. Statute of frauds: GOL 5-703
 - B. Condition of property: *Meyers v Rosen*, 69 AD3d 1095 (2d Dept 2010); RPL 461, 462, 465; General Business Law §§ 777, 777-a
 - C. Risk of loss: GOL 5-1311
- III. Real Property Mortgages
 - A. Lien-theory
 - B. Transfers: *U.S. Bank National Assoc. v Dellarmo*, 94 AD3d 746 (2d Dept 2012)
 - C. Enforcement: CPLR 5230 (a); RPAPL art. 13; *Wells Fargo Bank v Marchione*, 69 AD 3d 204 (2d Dept 2009); *Wells Fargo Bank v Carney*, 50 AD3d 287 (1st Dept 2008)
- IV. Title
 - A. Concurrent Estates including joint tenancy and tenancy by the entirety: EPTL 6-2.2 (d); *Lawriw v City of Rochester*, 14 AD2d 13 (4th Dept 1961); *Hiles v Fisher*, 144 NY 306 (1895); *V.R. W., Inc. v Klein*, 68 NY2d 560 (1986)
 - B. Adverse possession: RPAPL 501, 541, 543; *Pritsiolas v Apple Bankcorp, Inc.*, 120 AD3d 647 (2d Dept 2014)

- C. Recording act: RPL 290, 291
- D. Restrictive Covenants: *Witter v Taggart*, 78 NY2d 234 (1991)

TORTS AND TORT DAMAGES

- I. Negligence and Related Tort Concepts
 - A. Comparative negligence/assumption of risk: CPLR 1411, 1412
 - B. Violation of statute or regulation: *Elliot v City of New York*, 95 NY2d 730 (2001)
 - C. Landowner liability: GOL 9-103; *Basso v Miller*, 40 NY2d 233 (1976)
 - D. Negligent supervision/entrustment: *Nolechek v Gesuale*, 46 NY2d 332 (1978); *Holodook v Spencer*, 36 NY2d 35 (1974)
 - E. Negligent infliction of emotional distress: *Broadnax v Gonzalez*, 2 NY3d 148 (2004) *Bovsun v Sanperi*, 61 NY2d 219 (1984)
 - F. Statutory standard of care owed to construction workers: Labor Law §§ 240, 241
 - G. Vicarious liability: GOL 11-101 (Dram Shop Act); Vehicle and Traffic Law § 388 (permissive user); GOL 3-112 (parent/child)
 - H. Wrongful death actions: EPTL 5-4.4; *Noseworthy v City of New York*, 298 NY 76 (1948)
 - I. Negligent misrepresentation, including duty to non-contractual party: *Kimmell v Schaeffer*, 89 NY2d 257 (1996); *Credit Alliance Corp. v Arthur Andersen & Co.*, 65 NY2d 536 (1985)

- II. Contribution, Indemnification and Limitations on Joint and Several Liability
 - A. Entitlement to amount of contribution: CPLR 1401, 1402
 - B. How contribution is claimed: CPLR 1403
 - C. Limitation on claims for contribution in workers' compensation context: Workers Compensation Law § 11
 - D. Effect of release: GOL 15-108
 - E. Limitation on liability of joint and several tortfeasors for non-economic loss: CPLR art 16

- III. Other Torts
 - A. *Per se* defamation: *Geraci v Probst*, 15 NY3d 336 (2010); *Lieberman v Gelstein*, 80 NY2d 429 (1992)
 - B. Invasion of privacy: Civil Rights Law §§ 50, 51
 - C. Prima facie tort: *ATI, Inc. v Ruder & Finn, Inc.*, 42 NY2d 454 (1977)

- IV. Statutory No-Fault: Insurance Law §§ 5101-5109
 - A. Purpose
 - B. Basic economic loss
 - C. Serious injury determination
 - D. Entitlement to and exclusions from coverage for first-party benefits
 - E. Availability of action for non-economic loss: Insurance Law § 5104 (a)
 - F. Availability of action for economic loss in excess of basic economic loss

- V. Municipal Tort Liability
 - A. Proprietary vs. governmental functions: *Miller v State of New York*, 62 NY2d 506 (1984)
 - B. Special relationship/special duty: *Cuffy v City of NY*, 69 NY2d 255 (1987)
 - C. Notice of claim requirement: General Municipal Law § 50-e

TRUSTS, WILLS AND ESTATES

- I. Intestate Succession: EPTL 4-1.1
 - A. Disqualification of parent, spouse: EPTL 4-1.4, 5-1.2
 - B. Non-marital children: EPTL 4-1.2
 - C. Child conceived after parent's death: EPTL 4-1.3

- II. Wills
 - A. Execution requirements: EPTL 3-2.1, 3-2.2
 - B. Codicils: EPTL 3-2.1
 - C. Proof of lost or destroyed will: SCPA 1407
 - D. Incorporation by reference: *Booth v Baptist Church of Christ of Poughkeepsie*, 126 NY 215, 247-248 (1891); *cf.* EPTL 3-3.7 (pour-over trusts)
 - E. Revocation
 - 1. By physical act or subsequent writing: EPTL 3-4.1
 - 2. Partial revocation: EPTL 3-4.1
 - 3. Proof of lost will, presumption of revocation: SCPA 1407; *Matter of DiSiena*, 103 AD3d 1077 (3d Dept 2013)
 - 4. Revival of revoked wills: EPTL 3-4.6
 - 5. Dependent relative revocation: *Matter of Sharp*, 68 AD3d 1182 (3d Dept 2009)
 - 6. Revocation due to divorce: EPTL 5-1.4
 - F. Construction problems
 - 1. Lapsed legacies: EPTL 3-3.3, 3-3.4 (residue of a residue)
 - 2. Ademption: EPTL 3-4.3, 3-4.5
 - 3. Advancement: EPTL 2-1.5
 - 4. Competency of attesting witness-beneficiary: EPTL 3-3.2
 - 5. Renunciation: EPTL 2-1.11
 - 6. Abatement: EPTL 13-1.3
 - 7. Gifts to classes, children and issue: EPTL 2-1.2, 2-1.3, 3-3.3, 4-1.3
 - 8. Adopted children: EPTL 1-2.10, DRL 117; *Matter of Best*, 66 NY2d 151 (1985), *cert denied sub nom McCollum v Read*, 475 US 1083 (1986)
 - G. Will contests: EPTL 3-3.5
 - 1. Due execution: EPTL 3-2.1, 3-2.2
 - 2. Testamentary capacity
 - 3. Undue influence
 - 4. Fraud
 - 5. Mistake
 - 6. No-contest clauses: EPTL 3-3.5 (b)
 - 7. Standing to contest: SCPA 1410
 - 8. Burdens of proof
 - H. Non-probate transfers
 - 1. Inter vivos gifts
 - 2. Joint tenancies: EPTL 6-2.1, 6-2.2
 - 3. Totten Trusts: EPTL 7-5.2
 - 4. Transfer on death brokerage accounts: EPTL 13-4.1, 13-4.12
 - 5. Joint bank accounts: Banking Law § 675
 - 6. Life insurance
 - 7. Retirement benefits
 - 8. Inter vivos trusts

- III. Family Protection
 - A. Spouse's elective share and testamentary substitutes: EPTL 5-1.1-A, 5-1.2
 - B. Share of after-born or pretermitted child: EPTL 5-3.2
- IV. Health Care Proxies and Powers of Attorney: Public Health Law §§ 2980, 2981, 2982, 2985; GOL 5-1501, 5-1501A, 5-1501B, 5-1505, 5-1511, 5-1513, 5-1514
- V. Trusts
 - A. Creation of lifetime trusts, including trust res, beneficiary, trustee, valid purposes and execution requirements: EPTL 7-1.4, 7-1.8, 7-1.15, 7-1.17
 - B. Types of trusts
 - 1. Revocable: EPTL 7-1.16, 7-1.17
 - 2. Irrevocable: EPTL 7-1.9, 7-1.16
 - 3. Testamentary: EPTL 3-2.1, 7-1.4
 - 4. Pour-over: EPTL 3-3.7
 - 5. Charitable, including cy pres: EPTL 8-1.1
 - 6. Resulting trusts: EPTL 7-1.7
 - C. Alienability of trust interests and spendthrift trust provisions: EPTL 7-1.5, CPLR 5201, 5205
 - D. Amendment, revocation and termination: EPTL 7-1.6, 7-1.9, 7-1.16, 7-1.17, 7-1.19
- VI. Rule against perpetuities: EPTL 9-1.1, 9-1.2, 9-1.3